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In Memoriam  
John Alexander Jameson  
By  
Francis Newton Thorpe.

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# In Memoriam

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John Alexander Jameson, LL.D.

Councilor of the American Academy of Political and Social Science.

Late Judge of the Superior Court of Chicago.

Author of Constitutional Conventions, etc.

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By Francis Newton Thorpe

Member of the Academy

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## In Memoriam

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### JOHN ALEXANDER JAMESON, LL.D.

In the death of Hon. John Alexander Jameson, the American Academy of Political and Social Science has lost one of its most valued Councilors, the American bar one of its brightest ornaments, and the world of science one of the most profound and industrious scholars in the field of American public law. It is eminently fitting that a society like the Academy, formed to promote, among other ends, the study of constitutional law, should devote more than a passing notice to a man who has enriched our constitutional literature not only by judicial decisions of far reaching significance, but also by such a treatise as that on Constitutional Conventions.

Judge Jameson was born of Thomas Jameson and Martha Gilchrist in the town of Irasburgh, county of Orleans, Vermont, on the twenty-fifth of January, 1824. He inherited in full measure that sturdiness of opinion, readiness of wit, fearless courage and mental comprehension, which during a life covering quite nearly the period allotted to man, distinguished him among a body of men, in the second city of the Union, many of whom have won

honor at the bar, on the battle-field and in literature. About the middle of the eighteenth century a body of Scotch emigrants came from northern Ireland to northern New England. Of that stock was the distinguished jurist of whose life this sketch is a memoir.

The Scotch-Irish element that settled in New England was a more aggressive body of men than was the Puritan of whom more has been written. But the Puritan expired by limitation of time. He lost his identity as soon as he left the old New England home. He was a founder of States it is true, but his range westward was narrower than tradition suggests. The Puritan never got farther west than the Western Reserve, or "New Connecticut" as it was called a century ago. His children are proud of their parentage; but his children were never Puritans.

The Scotch-Irish immigrant of New England and his children have a different history from that of their Puritan neighbors. To the New England Puritan and his posterity came communal success; to the son of the Scotch-Irish New Englander came an individually brilliant career. Central New York, northern Pennsylvania, northern Ohio, owe their wealth and prosperity to the men and women of Puritan stock, who transformed the wilderness into a civilized community, and made the country from the five lakes of New York to Lake Superior such a land as we now know. But upon examination of the record of brilliant men who, in the several cities from Syracuse to Chicago, from time to time during the last ninety years have sprung into fame at the bar, in the organization of great mercantile companies, or in the management of mighty enterprises, it will be found that these brilliant careers were run generally by New England men, but by New England men of Scotch-Irish blood. Of that stock were Horace Greeley and Stephen A. Douglass and John A. Jameson. From northern New England issued at various times men and women of Scotch-



Irish parentage who have made the lasting fame of western communities. No other city in America can furnish so many illustrious examples of the brilliancy, of the versatility, of the courage, of the vexatious labors, and of the crowned success of men and women of Scotch-Irish blood, as can the city of Chicago. To this city while yet a young man, beginning the practice of his profession, Judge Jameson came; there he won success whose crowning glory was a life of honor; there he sat as a wise judge for eighteen years, and handed down a body of decisions wide in the diversities of legal practice, yet all profoundly considered and in almost every case sustained by the highest judicial authority. In this city he labored for many causes tending to the public welfare, giving freely of his counsel and of his active assistance. In this city he died and was buried.

Illinois has had many great men; some natives of her soil, others who chose her for their home. She has had great statesmen—Lincoln; great soldiers—Grant; great lawyers—Storrs; and one of her sons now honors the chief place in the highest court in the land. She has had many citizens, less eminent than these, in statesmanship, in war, at the bar and on the bench. Among these eminent men less widely known, who gave to the Chicago bar a due portion of its fame for learned and brilliant men, who united stability of character, powers of keen discrimination, swift judgment, wide comprehension of relations, incisive speech and ready wit, was Judge Jameson. Of the first order of men in Chicago; select in his associations; reserved in his friendships; intimate with few yet friendly to all, during a residence of nearly forty years in the city of his choice, which, meantime, changed from a western settlement to the second city of the Nation, Judge Jameson maintained the confidence of his contemporaries and during nearly half of that time was honored by judicial preferments at their hands. From the time of his coming to Chicago until his



death his name always stood for honor, for ability and for integrity.

The foundations for such a career were laid securely in early life. His childhood home was a home of New England thrift, of New England obedience, and of New England purity. At the age of twelve he was apprenticed to learn the molder's trade on condition that he should receive six months' schooling in the district. His father had meanwhile become interested in the foundry business and desired his son to fit himself to continue it. In 1839 John was entered in a school at Brownington and after six months found himself interested in a higher education than a district school could afford. An accident, while playing with one of the workmen, caused a temporary inability to work at his trade, and John, pleading his injury and his inclinations, besought his father to allow him to go to college instead of devoting himself to the business of labor in a foundry. His father urged John to consider the matter for a week before deciding on college. Meanwhile the panic of 1837 led to his father's failure in business; and probably to his greater willingness that his son should secure a training that might fit him for some other activity than that afforded by the uncertain conditions of trade at that time. The decision to permit him to enter college compelled great sacrifices at home, and John's parents, being able to help him but little, sent him to a preparatory school some seven miles from home where he might with their help board himself. Once a week he received supplies from home; and by many sacrifices he was enabled to complete his preparatory studies, although as he said in after years, he was "hurried through" with little Latin, with less of Greek, with a modicum of mathematics, but with a fair training in English. Assisted by a fund in the hands of his step-mother, he entered the State University in the fall of 1842, with the purpose of studying for the ministry. He had

scarcely matriculated when he was seriously injured by a fall which confined him to his bed for three months. He had broken several bones and the surgeons of that day made such cases as his an opportunity for heroic treatment. The memories of those painful months never faded from his mind; and in later life he often referred to that time as the most pathetic period of his life. In his lonely college chamber, bound down by straps and splints, he handled his books by a mechanical contrivance, and all through his tedious confinement kept up with his fellows in their studies. He was at the head of his class during the entire course. Like many a college boy, he experienced critical changes in religious opinions during these days and gradually became more liberal in his views than his Scotch-Irish Presbyterian ancestors might have approved. But in an age when so called "free thought" swept over nearly all the colleges of America, this young collegian did not become a follower of either Paine or Jefferson, but, influenced by the doctrines which he had inherited, and also by the conservative New England about him, he departed from the faith of his fathers only sufficiently far to join the school of Channing and of Emerson. While perplexed by the theological problems that came up for settlement before his youthful mind, little did he dream that far away in the West, in a city that was to become his home, in a city which during his lifetime was destined to change from a military post where traders at times convened to a metropolis of more than a million souls, he, a judge on the bench of the Superior Court of that city should hand down a decision affecting great church interests, in the case of Charles Edward Cheney; that his decision should become a precedent in American law, and that the final disposition of the case should culminate in the organization of the Reformed Episcopal Church.



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that occurred, myself taking, I must admit, a modest part therein."

"When I left Freeport for Chicago in 1856, the political pot was boiling furiously; the two parties, Republican and Democratic, being fully organized, and the Presidential election coming off in November. At that time an election in Chicago was not the orderly affair it has been of late years. At no time have I seen such excitement and so much violence as at the November election in 1856, when the Republican Party were voting for Fremont. The elements that threatened fraud and even bloodshed were concentrated mainly in the old Seventh Ward, now the Fifteenth. I remember, when attending the polls on the South Side, where I was a voter, word came from our political friends in the Seventh Ward that they must have assistance or the polls would be forced; that a crowd of roughs with pistols were threatening to overpower the police and that the latter must have help at once. At this summons a large force of us young Republicans went across Wells Street Bridge and compelled our Democratic opponents to behave themselves. In the summer preceding this election some one suggested one evening that we go over to Dearborn Park to hear a Republican speech. Entering the Park which was ill-lighted, so that our crowd could hear, but see little or nothing, we found a crowd surrounding a stand, on which spot there has since been a feeble effort to erect a fountain. On the stand was some one speaking. No name was given me and I began to listen. It was not long before I found myself, unimpressionable as I am usually, cheering at some remarkably well put point of Republican doctrine. By and by I swung my hat in the air, and before many minutes elapsed my hat went up again with others amid a whirlwind of shouts, so clear, forcible and decisive were the arguments of the speaker, a tall man as I could see. I then asked a bystander who that man was. 'Why, don't you

know?' was the reply; 'that's Old Abe, Abe Lincoln from Sangamon County.' That was my first sight of the heaven-sent liberator, Abraham Lincoln. From that evening I have never had a doubt of the supreme ability of that great and good man. I saw him three times afterwards: once when he was counsel for the Illinois Central Railroad Company, in the suit brought against it by George C. Bates, and in passing I will mention a little incident that occurred in my presence in the Court Room during the trial. I was sitting with Mr. Moulton, late Master in Chancery of the United States Circuit Court, a man of infinite jest, when Mr. Lincoln came up to him and showing him a letter they had a hearty laugh over its contents. It was from Mr. Lincoln's little son, who said: 'his mother wanted him to tell his papa not to forget to put on his clean shirt in the morning.'" Judge Jameson writes: "When Lincoln came to speak in closing the case for the defendants, I felt a little disappointed. His voice was high, thin, almost screechy, and his argument was labored. I could not help feeling that his judgment was not fully convinced that his case was a just one, and it is well known that he never made a successful argument when such a condition existed. His integrity so permeated his mind and all its faculties that it refused to act at its highest if his conscience was not thoroughly in accord with his official position. This may be an error, but his speech though aiding in securing a judgment for the defendants was not what I call a great forensic effort." "The second time I saw him was when he had a reception at the Tremont House after his election to the Presidency. His face already wore the impress of the immeasurable burden beginning to settle down upon him, the look of one who suffers but will not flinch, whatever may befall him. The last time I saw him was on his return to Chicago, the victim of an assassin, followed by the tears and lamentations of our whole people and of the people of all lands."



Mr. Jameson had heard the orations by Choate and Hilliard on the death of Webster. He had listened to the defense of Douglass on his course in politics; he had learned the principles of a great political party from the lips of one of its founders, Lincoln, and he had also heard a portion of that famous debate between the great rivals, Lincoln and Douglass; a debate which to this day remains unique in our political history. In a volume of the Lincoln-Douglass debate is preserved a memorandum by Judge Jameson of peculiar interest. On the fifth of January, 1884, Hon. Joseph O. Glover called at the office of Judge Jameson and the conversation ran on the old lawyers of Illinois. Mr. Glover, a political friend of Senator Douglass, related an incident. Mr. Glover was a member of the Illinois legislature, a friend of Douglass and his warm supporter for the United States Senatorship, but the course of Mr. Douglass in the Kansas-Nebraska affair shook the political but not the personal friendship of Glover for Douglass. In the summer before the joint-debate between Lincoln and Douglass, Mr. Glover being in Chicago, received a note from Mr. Douglass requesting him to call. Senator Douglass told Mr. Glover that he had agreed to accept a challenge sent him by Mr. Lincoln to a joint debate during the pending canvass, but that he wanted to say to Mr. Glover and to a few other Republican friends that he thought the acceptance of the challenge was a mistake; that he had been constrained to it by the opinions of his political friends; that he, Douglass, had some reputation as a debater outside the State of Illinois and he might say outside of the United States; that Lincoln had none except in his own State; that people would come to hear them expecting everything from Douglass and nothing from Lincoln, "but," added Douglass, "You know, Glover, that I am pitted against one of the most formidable men in this country or in any other, and I am satisfied that the result of the

joint debate will be that I shall be regarded as having been beaten by Lincoln." Douglass further said to Mr. Glover that he wished this opinion of his own to be remembered, and after all was over he wanted his feelings in regard to meeting Lincoln, under the circumstances to be made fully known.

In 1855 Mr. Jameson was married to Miss Eliza Denison, of Royalton, Vermont; of a family well known in that State. In 1856 he returned to Chicago from Freeport; and soon after fixed his home in that part of the city now known as Hyde Park, where he continued to live until the time of his death.

His political activities and sympathies had early identified him with the Republican Party in Cook county and he was mentioned in connection with important offices in the gift of the party. He did not enter politics, however, but confined himself strictly to the duties of his profession. The political excitement, almost continuous from the time of his arrival in Chicago, was aggravated after the election of Mr. Lincoln by a rumor, widely current in the State of Illinois, that the State Constitutional Convention, which had convened at Springfield, January 7, 1862, was largely under the influence of a secret organization, whose members, known throughout the State as the "Knights of the Golden Circle," were endeavoring to bring about an adoption of the newly made State Constitution by proclaiming it in force instead of submitting it to a vote of the people, as was required by the Act of Assembly under which the Convention had assembled. This secret organization was considered as a band of conspirators in sympathy with secession, capable of almost any crime against the National Government, and anxious to secure the adoption of a State Constitution which might be interpreted as far as possible hostile to the Constitution and the laws of the National Government. Mr. Jameson for some ten years previous to the assembling



of this Convention had become a student of American Constitutional History and, animated by political opinions and ideas in which he firmly believed, he devoted himself from the inception of the Illinois Convention of 1862 till the close of the year 1866 to the preparation of a treatise on "Constitutional Conventions." The first edition of this now famous book bore the title, "*The Constitutional Convention; Its History, Powers, and Modes of Proceeding.*" It has subsequently been in part rewritten and has passed through four editions.\* While attending to the ever increasing duties of his profession and in the preparation of this book, the author, in 1865, was made the candidate of his party for the office of Judge of the Superior Court of Chicago, to which he was elected for three successive terms, his service covering from 1865 to the close of the term of 1883.

This treatise on Constitutional Conventions was the first of its kind. In the accumulation of material for this work Judge Jameson collected for the first time in this country a library of the Debates, Journals and Proceedings of many of the State Constitutional Conventions which had assembled in various States from the beginning of State government in this country down to the year 1865. A voluminous correspondence between Judge Jameson and many distinguished scholars exists, which shows the interest he took in the preparation of his treatise and also the almost equal interest manifested by them in his work. Charles Sumner, Lyman Trumbull, Francis Lieber, John C. Hurd, H. B. Dawson, George Bancroft, T. W. Dwight, and many judges and eminent counselors throughout the Union, Secretaries of State, Governors and specialists, were in communication with him.† No one who has neglected to examine the material consulted in the preparation of Jameson's work

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\* Callaghan & Co.

† Letters and MSS.

can be aware of the peculiar difficulties to be overcome in the preparation of it. The work of above one hundred and fifty conventions had to be critically examined, often from meager reports or from prolix debates. The laws and judicial decisions relevant to each convention had to be critically studied, and the whole mass of matter from so many and such heterogeneous sources arranged into a common system. Many conventions were never reported or so inadequately reported as to contribute little to the general stock of knowledge. Others, like those of Massachusetts or Pennsylvania, were voluminously reported, yet for the purpose set forth by Judge Jameson it was as necessary to examine into the "history, powers and modes of procedure" of the obscure as well as of the well known conventions. From this mass of material the orderly mind of the author deduced a system of conventional proceedings which is now acknowledged by those competent to judge as rational and legal. The reception of the book abroad, especially on the continent, was quicker than at home. It was recognized at once as a contribution to a knowledge of an institution in the American system of government which foreigners had never been able to understand. As later editions have appeared, the lawyers and the judges of the country have slowly come to understand the value of the treatise. It was first cited as an authority in the case of *Wells et. al. vs. the Election Commissioners*, in Pennsylvania, 1873; a case growing out of certain proceedings in the Pennsylvania Constitutional Convention of that year. In the six constitutional conventions of 1889 the work was frequently cited, as appears from the debates. The work is a legal, not an economic or historical treatise. It aims to set forth the lawful place of the constitutional convention in our system of government. There is a common tradition that each State Constitutional Convention is a law unto itself; the purpose of this treatise is to determine what that law is.



The authorship of such a book brought Judge Jameson fame and academic honors. His *alma mater* made him a Doctor of Laws; critics at home and abroad praised the book. The American press gave it elaborate and favorable reviews. Great scholars crowned the work with their approval. He was acknowledged an authority in state constitutional matters and was frequently a contributor to the press on those subjects. He had not solicited a nomination to the bench; the office had sought the man. He took the Chancery business of the court, which in Cook county was very heavy. In 1872 for the first time his health showed signs of failing, due to defective heating and ventilation of the court room. He was unable for a portion of the year, 1873 to perform his judicial duties; he never fully recovered from that prostration. A journey to Colorado perhaps saved him from utter collapse; the restorative effect of the mountain air happily being adapted to his needs.

The decisions of Judge Jameson are recorded in about one hundred cases duly reported. As a judge he distinguished himself by his diligent research, by his attention to the trial of the case, and by his general fairness to all parties. He wrote his decisions with extreme care and always conveyed the impression of exhaustive consideration of the subject. Of the leading cases which he decided that of *Roth vs. Roth* (104 Ill. 35), of *Cheney vs. Chase* (Chicago Law Times, Oct., 1888), and of *Breit vs. Yeaton* (Chicago Law Times, Oct., 1888) were the most widely noted. In the case of *Roth vs. Roth* the question presented for decision was, whether a marriage contracted in the State of Illinois, valid and binding there, could be declared a nullity by the courts of another country, and if so declared, whether the courts of this country were bound to recognize such a judgment, which was manifestly in the face of the laws of Illinois, where the marriage was good; and

whether the marriage of the husband with a second woman could be considered by the courts of this country as a valid marriage, because valid in the foreign country where entered into. Judge Jameson rendered an exhaustive opinion which involved almost wholly what is known as private international law, deciding in favor of the second marriage. The case was without precedent in England or in this country, and all the propositions laid down by Judge Jameson in his able opinion have been affirmed by the Supreme Court of the State of Illinois.

In *Breit vs. Yeaton*, previously heard by the Appellate Court on demurrer to the bill and reported in 4 Bradwell, 579, as *Yeaton vs. Yeaton*, which came before Judge Jameson for final hearing, several entirely new questions in the law of Illinois were raised. (1) Whether on a bill by husband and wife against the trustee in their marriage settlement, the interests of unborn children could be affected by the decree. (2) Whether a conveyance by the husband and wife, duly acknowledged but not otherwise witnessed, was a valid execution of a power reserved to the wife in the marriage settlement which provided that such conveyance should be attested by three witnesses. (3) Whether equity would aid a defective execution of the power in favor of the husband, or purchasers from him for value. Judge Jameson decided, in a learned opinion, all these questions in the negative, and was sustained by the Supreme Court. Chief Justice Fuller who was of counsel in the celebrated case of *Cheney vs. Chase* has given an account of it as follows: In *Cheney vs. Chase et al.*, Judge Jameson granted an injunction in favor of a clergyman of the Episcopal Church against the members of an ecclesiastical tribunal (so called), which it was alleged was organized and proceeding contrary to the law of the church to a self executing judgment which would result in depriving the complainant of his means of livelihood. Judge Jameson held that in law, churches in this



country were mere voluntary associations founded on contract, that the decisions of their judicatories could not be conclusive as to the existence and extent of jurisdiction, and that courts could not decline the investigation into the terms and conditions of such contract where civil rights were involved, and the according of redress for the violation of such rights. The view held by Judge Jameson has gradually but finally been accepted as correct. The Supreme Court held that the secular court should "examine the question of jurisdiction without regard to the decision of the spiritual court itself; and if they find such tribunal has been organized in defiance of the laws of the association, and is exercising a merely usurped and arbitrary power, they should furnish such protection as the laws of the land will give." The case attracted great attention at the time both in this country and in Europe and the final decision led to the establishment of the Reformed Episcopal Church of America.\*

Judge Jameson was frequently invited to address learned associations, colleges and public meetings. He was for a time a lecturer on Constitutional Law in the Law School of Chicago. Amidst the engrossing cares of judicial duties he found time to continue his studies in language and literature. He was an accomplished linguist and frequently had occasion to apply his knowledge of languages in the examination of witnesses. After his retirement from the bench in 1883 he resumed the practice of the law, his services being chiefly those of a counselor. He also contributed frequently to the press on various subjects, and there is reason to believe that he had planned a legal treatise on the subject of Trusts, as he left a mass of manuscript on that subject in an unfinished state. He was a well known man in important social gatherings in Chicago and was

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\* Trial of Rev. Charles Edward Cheney, Chicago, Ill., 1869.

chosen by Governor Oglesby to represent the State of Illinois at the Centennial Celebration of the Formation of the Federal Constitution held in Philadelphia in 1887. He was a keen judge of human nature, was cordial in his manner, yet dignified, and always impressed strangers as a man of deep learning and of unusual force of character. In personal appearance he resembled slightly Edwin M. Stanton, but he suffered from none of the irascibility peculiar to that distinguished man. As an after dinner talker Judge Jameson was perhaps at his best. Then his wit was keenest, his repartees brightest, his mind discovering its delicate shades of thought, its strong conclusions, its original powers. He was a good talker as Macaulay was a good talker, and his talk was so interesting that other men were happy to listen. Pre-eminently was Judge Jameson's mind a judicial mind. He was constitutionally a weigher of opinions; he could argue both sides clearly, but he could do more; he could decide fearlessly. He was eminently a courageous judge and that characteristic was doubtless the secret of his success throughout life. Men who differed from him admired him as they always admire a strong opponent. The wide range of his mind can be judged only by careful study of the numerous critical cases he decided. A judge should be estimated not from a single case but from all the cases and decisions which he hands down. Measured by such a standard the mind of Judge Jameson was of high order. In chancery cases, in criminal cases, in patent cases, in cases involving points of constitutional law, he showed almost equal powers and powers of the first order. It is not strange that it may have occurred to him that were he called to the highest court of the Nation he could perform his duty there with honor and ability.

Occupied for many years with judicial cares and office, he could not accept political honors. Had he entered politics, doubtless he would have won national fame. He



was one of the founders of the Republican Party; he was devoted to the perpetuation of its principles in power, and he defended its course at all times with argument and personal devotion. In a letter to Chief Justice Fuller, a near and dear friend, written on the morning when President Cleveland made the nomination for Chief Justice of the United States, Judge Jameson remarks, with characteristic humor, that he had wondered, for thirty years, why so excellent a man as Mr. Fuller was not a Republican; but that the President's nomination had made the reason plain. Mr. Fuller had been saved by a kind Providence to receive the high office of Chief Justice at the hands of a Democratic administration.

Judge Jameson was one of the founders of the celebrated Literary Club of Chicago; he was also one of the founders, and first President of the Prisoners' Aid Association of Illinois. He was deeply and actively interested in the Industrial Training School of the State. He was President of the village of Hyde Park, in 1888, and his public services in restraining the abuse of the liquor traffic in that town called forth a set of resolutions from its citizens highly approving his course. As an executive officer, his stern justice, his lofty sense of right trained in the school of experience, his decision and his courage, won the commendation of all good citizens.

Judge Jameson was one of the first to take an active interest in the foundation of the AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE, predicting for it a brilliant career and expressing his intention to labor in its behalf in every possible way. To his aid as a member of THE COUNCIL and of the GENERAL ADVISORY COMMITTEE this new society which has taken such a firm hold among all persons interested in economic and political studies owes much. He felt that it was destined to exercise a powerful influence in promoting a sounder and broader scholarship

